

## Elopement: No Redirection, Court Says Nursing Facility Neglected A Vulnerable Adult.

A sixty year-old woman had a history of bipolar disorder and schizophrenia going back more than twenty years. She was under court guardianship.

Her guardian had her admitted to a nursing facility that offered both skilled nursing care and nursing-home boarding services. The plan was to admit her as a boarding resident on a trial basis rather than a skilled nursing patient, with the treatment goal of enabling her eventually to develop the ability to live in a more independent placement setting.

The plan did not work. She stopped taking her psych meds and became paranoid and aggressive. She had to be hospitalized in an inpatient setting and was returned to the nursing facility as a skilled-nursing patient who was to receive close supervision of her medication compliance.

She eloped three times, each time dressing for the occasion and announcing an intention to leave. Each time she left her verbalized intention was highly inappropriate, like saying she had to take her now-adult daughter to school at 1:30 a.m., or she was going to (Christian) church on Friday rather than Sunday. Each time 911 was called, the police located her and returned her to the facility.

The police reported the facility to the state Department of Health. The Department investigated and sustained charges of neglect of a vulnerable adult. The Court of Appeals of Minnesota agreed with the Department, in an unpublished opinion.

### Court Sees Legal Duty

#### To Try To Redirect the Resident

The court ruled the facility's nurses had a legal duty to attempt to redirect the patient to try to keep her from leaving.

She was not under court-ordered lock-down, so the staff could not physically restrain her, lock her in her room or lock her in the building, but they still had a duty to try to use their skill and finesse to keep her on the premises. **River Oaks Health Care Center v. Dept. of Health**, 2003 WL 21448959 (Minn. App., June 24, 2003).

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***When a vulnerable adult whose capacity for rational choice is impaired announces an intention to make a choice that will subject her to a potentially harmful situation, the legal duty a caregiver is required to satisfy overrides the notion that the adult's right of choice is unfettered.***

***The facility had a duty to act when the resident announced her intention to elope. Instead, the facility shifted its responsibility to the police just to go and find her and return her.***

***Between her elopement to places unknown and her apprehension by the police her safety was in jeopardy.***

***The facility had a legal duty at least to attempt proper and legally permissible preventive steps.***

***Redirection is a know nursing-home practice. The success of redirection efforts is not always predictable: the vulnerable adult will leave the facility and will, if not immediately apprehended, likely jeopardize her own safety.***

COURT OF APPEALS OF MINNESOTA  
UNPUBLISHED OPINION  
June 24, 2003

## Elopement: Court Upholds Patient's Suit.

The Supreme Court of Wisconsin has basically affirmed the Court of Appeals' ruling that a patient who attempts to elope from a psych facility is not barred from suing the facility for negligence for self-inflicted injuries. See *Elopement Attempt: Court Says Psych Patients Have Special Legal Relationship With Hospitals*, Legal Eagle Eye Newsletter for the Nursing Profession (10)1, Jan. '02 p. 3.

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***The patient gets her day in court but it is her burden of proof to show exactly how the facility failed her.***

SUPREME COURT OF WISCONSIN  
July 1, 2003

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She was still on a locked psych ward after a suicide attempt, but the psychiatrist had lifted the close suicide watch two days earlier. She was technically a voluntary patient at the time in question.

The patient was fully dressed and had her purse with her. She was seen going to the pay phone on the unit, taking slips of paper out of her purse and making phone calls. The staff should have picked up on obvious clues she was planning to leave.

She had already gone into another patient's room and seen that the window air conditioner was loose, offering her the chance to climb out the third-floor window on a rope of bed sheets she had tied together. This first came to the staff's attention after the fact when they interviewed the other patient.

The Supreme Court of Wisconsin ruled in general terms that a psych facility owes a legal duty, even to a voluntary patient, to pick up on clues of elopement and to take preventive steps consistent with the patient's legal status in the hospital.

In general terms a psych patient can sue for self-inflicted injury, like falling out of a window trying to elope, if the facility neglected its responsibilities. **Hofflander v. St. Catherine's Hospital, Inc.**, \_\_\_ N.W. 2d \_\_\_, 2003 WL 21499928 (Wis., July 1, 2003).